IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 495 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

G S R T CORPN

Versus

MANGA PUNJA RATHOD

Appearance:

1. Special Civil Application No. 495 of 2001

MRS VASAVDATTA BHATT for Petitioner No. 1

MR PH PATHAK for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 20/07/2004

ORAL JUDGEMENT

1.0 The petitioner Corporation by way of this petition has challenged the award dated 04/05/99 passed

by the Labour Court, Jamnagar in Reference (LCJ) No.527 of 1992 at Annexure 'A' to the petition.

2.0 The respondent workman was employed as a Conductor with the petitioner Corporation. On 08/01/89 while the respondent workman was discharging his duties on Jamgadhda - Jamnagar route, the bus was checked by the checking squad of the petitioner Corporation. Some irregularities were found in the issuance of tickets. Chargesheet was issued to the respondent and departmental inquiry was initiated against him. The departmental inquiry found the respondent workman guilty of the charges framed against him. The competent authority by order dated 20/02/92 dismissed the respondent workman from the services of the petitioner Corporation.

2.1 Feeling aggrieved by the said order of his dismissal, the respondent workman raised industrial dispute being Reference (LCJ) No.527 of 1992 before the Labour Court, Jamnagar. The Labour Court, Jamnagar, vide award dated 04/05/99, directed the reinstatement of the respondent workman with continuity of service, but, without any back wages. Hence, this petition.

3.0 Ms.Vasavdutta Bhatt for the petitioner has submitted that the Labour Court has wrongly exercised the powers under Section 11(A) of the Industrial Disputes Act, 1947 and has not imposed any penalty while substituting the order of dismissal.

4.0 Mr.P H Pathak for the respondent workman has submitted that refusal of back wages is itself a penalty, and therefore, there is no need of any imposition of further penalty on the respondent workman.

5.0 I have heard the learned advocates for the parties and have gone through the award of the Labour Court. It is true that the petitioner Corporation had not placed on record any documents pertaining to the past conduct of the respondent workman before the Labour Court nor has produced the same before this Court also. It is not much in dispute that the respondent workman had accepted the departmental inquiry proceedings and had requested to exercise powers under Section 11(A) of the I.D. Act. Even the Labour Court had not granted back wages to the respondent workman and had not imposed any penalty.

6.0 In the peculiar facts and circumstances of the case and with a view to enable the respondent workman to improve his conduct, the order of the Labour Court is

modified to read as under;

6.1 The respondent workman is ordered to be reinstated in service with continuity of service, but, without any back wages.

6.2 A penalty of two increments with future effect is directed to be imposed on the respondent workman. It is, however, made clear that the award of the Labour Court will be implemented from the date of publication i.e. from 21/06/99 onwards.

6.3 The order of this Court is directed to be implemented before 1st August, 2004 and arrears as referred to above, be paid to the respondent workman within a period of four months from the date of receipt of this order. Rule is made absolute to the aforesaid extent with no orders as to costs.

(K. S. Jhaveri, J.)

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